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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE

16 ENOCH ADAMS, JR., LEROY ADAMS,
17 ANDREW KOENIG, JERRY NORTON
18 DAVID SWAN and JOSEPH SWAN,
19 Plaintiffs,
20 v.
21 TECK COMINCO ALASKA INCORPORATED
22 Defendant.
23

24 NANA REGIONAL CORPORATION and
25 NORTHWEST ARCTIC BOROUGH,
26 Intervenor-Defendants.
27

Case No. A04-49 (JWS)

**[PROPOSED] ORDER
GRANTING OBJECTIONS TO
PENALTY WITNESS LIST
AND MOTIONS IN LIMINE
TO EXCLUDE WITNESSES
AND EVIDENCE THAT IS
NOT RELEVANT
(Evidence Code §402)**

28 PROPOSED ORDER GRANTING PLAINTIFFS'
OBJECTIONS TO PENALTY WITNESS LIST
AND MOTIONS TO EXCLUDE WITNESSES

1 Teck Cominco and NANA jointly filed a revised list of 85 witnesses they anticipate
 2 calling at the penalty phase of trial. Docket 203. Plaintiffs object on grounds of relevance to 56
 3 of the witnesses. GOOD CAUSE APPEARING THEREFORE, IT IS ORDERED:
 4

5 1. Roland Booth, Bert Adams, Sr., Theodore Booth, Alvin G. Ott, Joyce Tsuji, Raymond
 6 Hawley, Philip Driver, Jon Houghton, Gerry Booth, John Rense, Karen Kelly, Craig Paulsen,
 7 John Middaugh, Scott Arnold, Gerry Brown, Steven R. Pannone, Larry Peterson, Scott Shock,
 8 Chuck Greene, Walter Sampson, Robert Sheldon, Jim Dau, Alfred DeCicco, Lee Johnson, Al
 9 Townsend, Phyllis Weber-Scannell, and Rose Barr are precluded from testifying at trial during
 10 the penalty phase as their proffered testimony as described is not relevant to any of the penalty
 11 factors.
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13 2. Wayne Hall, Chuck Hingsbergen, John Key, Ed Koon, Jackie Lundberg, Keith
 14 Malone, John Martinisko, Robert Napier, Mike Schierman, Steven Day, Walter Kuit, Brigitte
 15 Lacouture, George Thorton, Jeff Weaver and Ted Zigarlick are precluded from testifying at trial
 16 during the penalty phase as their proffered testimony as described is not relevant to any of the
 17 penalty factors.
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19 3. Sue Barkey, Richard Brown, Stan Capps, Peter Chapman, David DeForest, Steven
 20 Eide, Greg Horner, Kevin Lackey, Kent Patton, David Pillard, Mike Prieve, Mike Stanoway,
 21 William Stubblefield, and Jason Weakley are precluded from testifying at trial during the penalty
 22 phase as their proffered testimony as described is not relevant to any of the penalty factors.
 23

24 DATE:

25 _____
 26 Judge of the District Court
 27
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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of January 2008, a true and correct copy of the foregoing [Proposed] ORDER granting Plaintiffs' Objections to Penalty Phase Witness List and Motions to Exclude Witnesses was served, via electronic mail, on the below identified parties of record:

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/s/ Luke Cole

Luke Cole